

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



October 17, 2003

Regulation Packages #0202-04 and 1202-29

ERRATA FOR CDSS MANUAL LETTER NO. EAS-03-02

TO: HOLDERS OF THE EAS MANUAL, DIVISIONS 44 and 49

This manual letter has been posted on the Office of Regulations Development website at http://www.dss.cahwnet.gov/ord/Eligibilit_617.htm.

In the above-referenced manual letter, some of the pages were missing text. Please replace the attached pages in your manual. We apologize for any inconvenience this may have caused.

Attachments

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49-015	APPLICATION PROCESS (Continued)	49-015
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- .42 Example: Mr. Jones will attain age 65 on March 29, 1999. He can file an application as early as February 1, 1999, but his CAPI benefits will not be effective until April 1, 1999.

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NOTE: Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code. Reference: 20 CFR 416.200, 20 CFR 416.203; 20 CFR 416.315; 20 CFR 416.320; 20 CFR 416.330; P.L. 104-193, Section 204 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996), and Sections 18937, 18938, 18940, and 18944, Welfare and Institutions Code.

49-020	IMMIGRATION STATUS	49-020
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- .1 General requirements
- .11 To be eligible for CAPI, a non-citizen must be a legal immigrant and meet the immigration status requirements in effect for SSI/SSP on August 21, 1996.
- .12 The previous SSI/SSP requirements for immigrant status, found in 20 CFR 416.1600, stated that a non-citizen had to be a resident of the United States and an alien lawfully admitted for permanent residence in the United States, or an alien permanently residing in the United States under color of law (PRUCOL). This means the individual had to have a status listed under either "Qualified Alien" or "PRUCOL" in Section 49-005.
- .2 Specific eligibility requirements for individuals whose date of entry into the United States was prior to August 22, 1996.
- .21 Qualified Aliens as defined in MPP Section 49-005(q)(1) who were lawfully residing in the United States on August 21, 1996 must be age 65 or older to be eligible for CAPI.
- .22 Non-citizens who do not meet the definition of Qualified Alien must meet the other immigration standards in effect for SSI/SSP on August 21, 1996, which are known as the PRUCOL categories as defined in MPP Section 49-005(p) to be eligible for CAPI.
- .221 Individuals in this group can establish eligibility under any one of the three basic eligibility criteria (aged, blind or disabled).
- .3 Specific eligibility requirements for individuals who legally entered the United States on or after August 22, 1996.

49-020	IMMIGRATION STATUS (Continued)	49-020
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.31 To be eligible for CAPI, an immigrant who legally entered the United States on or after August 22, 1996 must be sponsored and one of the following must apply:

.311 The sponsor is deceased.

(a) The applicant must provide evidence that his or her sponsor has died.

.312 The sponsor is disabled as defined in Welfare and Institutions Code Section 11320.3(b)(3)(A).

(a) The applicant must provide verification of the sponsor's disability.

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(b) Welfare and Institutions Code Section 11320.3(b)(3)(A) states:

"The individual is disabled as determined by a doctor's verification that the disability is expected to last at least 30 days and that it significantly impairs the recipient's ability to be regularly employed or participate in welfare-to-work activities, provided that the individual is actively seeking appropriate medical treatment."

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.313 The applicant is a victim of abuse by the sponsor or the sponsor's spouse. Abuse is defined in the same manner as provided in MPP Section 42-701.2(d)(3), as authorized by Welfare and Institutions Code Section 11495.1.

(a) Abuse means assaultive or coercive behavior that includes, but is not limited to, physical abuse, sexual abuse, psychological abuse, economic control, isolation, stalking, and threats or other types of coercive behavior.

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(b) Welfare and Institutions Code Section 18938(A)(4) states in part:

"(A)(4) ...A sworn statement of abuse by a victim, or the representative of the victim if the victim is not able to competently swear, shall be sufficient to establish abuse if one or more additional items of evidence of abuse is also provided. Additional evidence may include, but is not limited to the following:

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"(i) Police, government agency, or court records or files.

"(ii) Documentation from a domestic violence program, legal, clinical, medical, or other professional from whom the applicant or recipient has sought assistance in dealing with abuse.

"(iii) A statement from any other individual with knowledge of the circumstances that provided the basis for the claim.

"(iv) Physical evidence of abuse.

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- (c) If the victim cannot provide additional evidence of abuse, then a confidential sworn statement shall be sufficient if the county makes a determination documented in the case file that the applicant is credible.

.4 For purposes of determining eligibility for CAPI under the provisions of Welfare and Institutions Code Sections 18938 and 18940, "entered the United States" or "entry date" means the effective date of the non-citizen's current immigration status as determined by the Immigration and Naturalization Service, except in either of the following situations:

.41 The non-citizen is a current CAPI recipient whose immigration status was adjusted after he or she began receiving CAPI benefits. In the situation, the same entry date that was used to determine his or her initial CAPI eligibility will continue to be used for redetermination of eligibility.

.42 The non-citizen, as of August 21, 1996, had an immigration status that met the definition of "Qualified Alien" [as defined in MPP Section 49-002(q)(1)], and has maintained continuous residence in the United States since at least August 21, 1996. In this situation the effective date of the Qualified Alien status held by the non-citizen on August 21, 1996 will be deemed to be his or her "entry date" for purposes of determining CAPI eligibility even if the non-citizen later adjusts his or her immigration status.

NOTE: Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code. Reference: 20 CFR 416.1600; P.L. 104-193 as amended, Sections 401 and 402 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996), and Sections 18938, 18940, and 18944, Welfare and Institutions Code.

49-025	AGE AND DISABILITY	49-025
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- .1 To be eligible for CAPI as an aged individual, a person must be 65 years of age or older.
- .11 An applicant must submit evidence of his or her date of birth in accordance with federal regulations.
 - .111 An applicant whose age is a condition of eligibility must submit a public record of birth, or a religious record of birth or baptism recorded before age 5, if available. If such records are not available, other evidence may be submitted to establish the applicant's date of birth. If the applicant alleges to be at least age 68, any document submitted that is at least 3 years old will be sufficient.
- .2 To be eligible for CAPI as a blind individual, a person must meet the requirements specified in 20 CFR 416.981 et seq. for the SSI/SSP program.

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- .21 A person who is determined to be statutorily blind is considered blind for purposes of SSI/SSP eligibility as stated in 20 CFR 416.981:

"Statutory blindness is central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which has a limitation in the field of vision so that the widest diameter of the visual field subtends an angle no greater than 20 degrees is considered to have a central visual acuity of 20/200 or less."

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- .22 The Department's Disability and Adult Programs Division is responsible for making all blindness and disability determinations for CAPI.
 - .221 A current determination of blindness established for Title II Social Security, SSI/SSP, or Medi-Cal can be used to establish blindness for CAPI. A current determination is one that has not lapsed due to benefit termination.

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- .222 Medical History and related forms must be completed and transmitted to the State Programs Branch of the Disability and Adult Programs Division along with any other medical documentation. The required forms are the MC 220, MC 221, and MC 223 and must be annotated with the identifier "CAPI CASE".

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